

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BAGGAGE AIRLINE GUEST SERVICES,
INC.,

Plaintiff,

v.

ROADIE, INC.,

Defendant.

C.A. No. 18-707-RGA

**DECLARATION OF JOHN P. MOY IN SUPPORT OF
ROADIE, INC.'S MOTION TO DECLARE THIS CASE EXCEPTIONAL
AND AWARD ATTORNEYS' FEES UNDER 35 U.S.C. § 285**

I, John P. Moy, hereby declare as follows:

1. I am an attorney with Smith, Gambrell & Russell, LLP, counsel for Roadie, Inc. (“Roadie”) in the above-captioned action.

2. I am an attorney duly licensed to practice law in the District of Columbia, the State of New York, and the Commonwealth of Virginia, and I have been admitted *pro hac vice* in the above-captioned action. I have knowledge of the following and, if called as a witness, could and would testify competently to the contents of this declaration.

3. I make this declaration in support of Roadie’s Opening Brief in Support of Its Renewed Motion to Declare This Case Exceptional and Award Attorneys’ Fees Under 35 U.S.C. § 285, filed contemporaneously.

4. Attached to this Declaration as Exhibit A is a true and correct copy of U.S. Patent No. 9,659,336.

5. Attached to this Declaration as Exhibit B is a true and correct copy of the Complaint, D.I. 1, from *Baggage Airline Guest Services, Inc. v. Roadie, Inc.*, Civil Action No. 6:17-cv-1253-Orl-37GJK (M.D. Fla.) (the “1253 Case”).

6. Attached to this Declaration as Exhibit C is a true and correct copy of Roadie’s Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted, Lack of Subject Matter Jurisdiction and for Improper Venue, D.I. 11, from the 1253 Case.

7. Attached to this Declaration as Exhibit D is a true and correct copy of an August 28, 2017 letter from John Moy to Jason Zimmerman.

8. Attached to this Declaration as Exhibit E is a true and correct copy of the Order granting Roadie’s Motion to Dismiss, D.I. 21, from the 1253 Case.

9. Attached to this Declaration as Exhibit F is a true and correct copy of an October 9, 2017 letter from John Pennington to Jason Zimmerman.

10. Attached to this Declaration as Exhibit G is a true and correct copy of Appellee’s Motion to Strike Portions of the Appendix and Portions of Appellant’s Reply Brief, from Bags’ appeal to the Federal Circuit, No. 2019-1511.

11. Attached to this Declaration as Exhibit H is a true and correct copy of the Federal Circuit’s July 16, 2019 Order on Appellee’s Motion to Strike, in No. 2019-1511.

12. Attached to this Declaration as Exhibit I is a true and correct copy of the Federal Circuit’s Judgment in favor of Appellee in No. 2019-1511.

13. Attached to this Declaration as Exhibit J is a true and correct copy of Bags’ Appeal Brief, filed with the Federal Circuit on April 8, 2019 in No. 2019-1511.

14. Attached to this Declaration as Exhibit K is a true and correct copy of Applicant's April 16, 2015 Amendment in response to Office Action, submitted to the USPTO during prosecution of the '336 patent.

15. Attached to this Declaration as Exhibit L is a true and correct copy of Bags' Reply Appeal Brief, filed with the Federal Circuit on June 10, 2019 in No. 2019-1511.

16. Attached to this Declaration as Exhibit M is a true and correct copy of a June 10, 2019 e-mail from John Moy to Stefan Stein.

17. Attached to this Declaration as Exhibit N is a true and correct copy of a June 10, 2019 e-mail from William Stein to John Moy.

18. Attached to this Declaration as Exhibit O is a true and correct copy of Bags' Infringement Contentions, served on January 31, 2018.

19. Attached to this Declaration as Exhibit P is a true and correct copy of Roadie's Second Supplemental Interrogatory Responses to Plaintiff Baggage Airline Guest Services Inc.'s First Set of Interrogatories.

20. Attached to this Declaration as Exhibit Q is a true and correct copy of a March 19, 2018 letter from John Moy to Jason Zimmerman.

21. Attached to this Declaration as Exhibit R is a true and correct copy of Bags' Amended Infringement Contentions, served on June 8, 2018.

22. Attached to this Declaration as Exhibit S is a true and correct copy of a September 25, 2018 e-mail from Cole Carlson to John Pennington.

23. Source code corresponding to the Roadie App, the Accused Product in this case, has been available for inspection and review by Baggage pursuant to the Protective Order entered in this case since September 24, 2018.

24. Counsel for Baggage did not review or inspect the source code corresponding to the Roadie App, nor did counsel for Baggage identify any individuals pursuant to the Protective Order to inspect and review the source code corresponding to the Roadie App.

25. Attached to this Declaration as Exhibit T is a true and correct copy of a March 29, 2018 e-mail from John Pennington to Stefan Stein and Jason Zimmerman.

26. Attached to this Declaration as Exhibit U is a true and correct copy of an April 16, 2018 e-mail from John Pennington to Cole Carlson.

27. Attached to this Declaration as Exhibit V is a true and correct copy of an April 30, 2018 e-mail from John Pennington to Cole Carlson.

28. Attached to this Declaration as Exhibit W is a true and correct copy of a June 5, 2018 e-mail from John Pennington to Cole Carlson.

29. Attached to this Declaration as Exhibit X is a true and correct copy of a June 8, 2018 e-mail from Cole Carlson to John Pennington.

30. Attached to this Declaration as Exhibit Y is a true and correct copy of a June 8, 2018 e-mail from John Pennington to Cole Carlson.

31. Attached to this Declaration as Exhibit Z is a true and correct copy of a news release dated December 4, 2018 appearing on the GrayRobinson law firm web site at <http://www.gray-robinson.com/news/post/1892/grayrobinson-assists-in-the-acquisition-of-bags-inc-for-275-million>.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on December 23, 2019 at Washington, D.C.

/s/ John P. Moy
John P. Moy

CERTIFICATE OF SERVICE

I, Pilar G. Kraman, Esquire, hereby certify that on December 26, 2019, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to registered participants.

I further certify that on December 26, 2019, I caused the foregoing document to be served by e-mail upon the following counsel:

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Dated: December 26, 2019

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